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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,020	01/08/2001	Robert Kendall	QUI-001	7098

7590 03/12/2004

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EXAMINER

MOONEYHAM, JANICE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,020

Applicant(s)

KENDALL ET AL.

Examiner

Jan Mooneyham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the applicant's communication on January 8, 2001. Claims 1-20 are currently pending in this application.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on April 11, 2001 is being considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

What does the applicant mean by vacation criteria and attributes? How are the attributes assigned to the criteria?

How does the system provide a recommendation of a vacation destination based on a selection via the user input device.

What does the applicant mean when the applicant states that the criteria is changeable dependent upon the selection of another of said criteria?

What is applicant trying to claim in the wording "computer prepares a file collecting selected displayed vacation criteria and image files"?

What does the applicant mean by the selecting including selecting a general type of vacation?

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What does the applicant mean by an associated image file?

How is the ranking done?

Why is the user removing a criteria?

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 11-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. The invention must recite technology in the body of the claims.

In the present case, claims 1-20 only recite an abstract idea. The recited steps of presenting inquiries to a user, selecting criteria by the user, determining a recommendation and outputting the recommendation does not apply, involve, use, or advance the technological arts

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since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. These steps only constitute an idea of how to select a vacation destination.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces a vacation recommendation (i.e., repeatable, useful and tangible).

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1-20 are deemed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-15, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by DeLorme et al (5,948,040) (hereinafter referred to as DeLorme).

Referring to Claims 1, 3-10:

DeLorme discloses an interactive vacation destination selection system comprising: computer including data files and user interface files, the data files including vacation criteria and attributes form a plurality of vacation destinations, said attributes being assigned to one or more of said vacation criteria and user interface file (Fig. 1A, 2)
A terminal in communication with said computer for receiving user interface files and vacation criteria from the computer (Fig. 1A)

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A display to display said user interface file and vacation criteria (Fig. 1A)

A user input device.(Fig. 1A)

DeLorme further discloses system wherein at least a plurality of said criteria each has a respective associated image file, (col. 35, lines 9-33), a system wherein the image file associated with one of the criteria is changeable dependent upon the selection of another criteria (Fig. 6), a system wherein the criteria is organized into categories (Fig. 1A), system wherein user interface files include request for input with respect to inquiries (Fig. 1A), a system wherein the interface files includes focus inquiries (col. 10, lines 59-66), a system wherein the computer prepares a file (Col. 17, lines 14-43), a system wherein said recommendation of at least one vacation destination includes a photograph, a map, information about the destination, the weather, a hyperlink to additional information, accommodations, prices, access, and availability (Fig. 1B1-1B3, col. 5, line 59 thru col. 6, line 46), and a system wherein the user interface files includes a means for editing selected criteria (Fig. 6, col. 9, lines 19-20).

Referring to Claims 11-15 and 17-20:

DeLorme disclose a method for selecting a vacation destination, comprising:
presenting to a user inquiries with respect of criteria for a vacation destination.

Selection a plurality of criteria by the user (Fig. 1A and 4), determining from the selected plurality of criteria at least one recommended vacation destination, (Fig. 4) and outputting to the user at least on recommended vacation destination (Fig. 4, col. 44, line 42 thru col. 47, line 43).

DeLorme further disclose method wherein the criteria have an associated image file, said image file is a photographic image, a two-dimensional array (col. 35, lines 9-33), a method wherein after selecting and prior to determining, requesting the user to remove at least one of

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said criteria (Fig. 6 (623)), a method wherein the user can edit the criteria (Fig. 6), a method wherein editing includes removing at least one of said selected criteria (Fig. 6), and a method wherein the output of the recommendation includes a photograph, map, information about the destination, the weather, a hyperlink to additional information, accommodations, prices, access, and availability (Fig 1B1-1B3, col. 5, line 59 thru col. 6, line 46).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLorme.

DeLorme does not explicitly disclose a system where the user interface files are HTML files or a method wherein after selecting, ranking a subset of criteria.

However, the Examiner takes Official Notice that HTML files and ranking a subset criteria is old and well known in the art and therefore would have been obvious to one of ordinary skill in the art since it is within the realm of knowledge of one of ordinary skill in the art.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Travellot.com discloses a travel recommender system which enables users to select from 88 criteria.

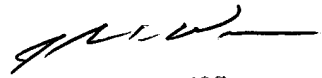
Farber discloses a route planning and guidance method which responds to inquires destination addresses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan Mooneyham whose telephone number is (703) 305-8554. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM


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